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PTO/SB/33 (07-05)
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
IDF 1499 (4000-02500)

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]

on August 10, 2005

Signature Karen A. Harris

Typed or printed name Karen A. Harris

Application Number	Filed
09/702,933	October 31, 2000

First Named Inventor
Craig Mahaney

Art Unit	Examiner
2643	Taylor, Barry W.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. Registration number 27,145

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____

Albert P. Metrailer
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Telephone number

August 10, 2005
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

☐ *Total of 1 forms are submitted.

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Patent

REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

Claims 1-25 are pending and are set out in pages 2-7 of the response filed on February 14, 2005.

By the office action of June 17, 2005, the Examiner has finally rejected Claims 1-25 under 35 U.S.C. 103(a) as being unpatentable over Bridger US Pat. 6,272,209 in view of Gidwani US Pat. 6,640,239.

Improper rejection:

The Applicant submits that there is no teaching, suggestion or motivation for one skilled in the art to combine the references. The teachings of the references actually teach away from any such combination. As a result, the ground of rejection is improper, because there is no basis for combining the references.

The claimed invention is an improvement to an integrated services hub, ISH, at a customer's premises. As clearly disclosed in the specification and in US Patent 6,272,553 that is incorporated by reference, an ISH is a customer premises device that sends and receives VOIP signals over a DSL line from a central office and generates all POTS type signals needed to operate telephones at the customer premises. An ISH must have a power source. It requires more power than can be provided over the telephone company wires. The normal power source is standard AC power at the customer premises. An ISH also contains a backup battery to provide power when AC power fails. The improvement is a system for detecting the loss of AC power and signaling to the user that AC power has failed. A related improvement is detecting the loss of the DSL connection and signaling to the user that the connection has failed. In either case the user may take appropriate action.

Bridger teaches a system that alternately provides either VOIP service or POTS service to a customer premises in order to provide continuing telephone service in case power is lost at the customer premises. Bridger's system does not provide a backup power system. When power is lost at the customer premises, the VOIP service stops because it depends on power at the customer premises and there is no backup power. Instead, a relay makes a physical change in the connection of the customer premises to the telephone company central office so that the customer premises may operate on POTS service which uses power from the telephone company. Bridger acknowledges that use of battery backup has been used to continue VOIP services to customer premises, but indicates that this is a PROBLEM solved by Bridger's invention. See Col 1, lines 45-52 and Col. 3, lines 53-55. Bridger teaches away from use of backup batteries in customer premises equipment. Bridger teaches a system that has no need for backup power, never operates on backup power, and therefore has no need to conserve power when operating on backup power.

Gidwani teaches a system that uses only VOIP services and does not use POTS service. Gidwani's system includes battery power backup to operate when the normal power at the customer premises fails. Gidwani teaches numerous methods for conserving power at the customer premises when operating on backup power. For example, Gidwani teaches turning off data services at the CENTRAL OFFICE and limiting service to voice service. Gidwani teaches notifying the subscriber when the CENTRAL OFFICE is in lifeline services only mode, col.59, lines 53-55.

The Examiner has asserted that:

"it would have been obvious to any one of ordinary skill in the art at the time the invention was made to modify the invention of Bridger to employ power management at the Customer Premise as taught by Gidwani for the benefit of providing subscriber with voice over IP."

As noted above, Bridger teaches nothing about providing VOIP service in the event of power failure at the customer premises. Bridger substitutes POTS service for VOIP service. Bridger teaches nothing about conserving power. There is no reason to consider combining power management techniques to continue VOIP service with a system that would not benefit from power management and that does not provide VOIP service when power fails. The suggested combination would not function to provide VOIP service to the subscriber.

The Examiner has suggested combining power management from Gidwani with the teachings of Bridger. But, there would be no power to manage in such a combination since Bridger has no backup power to manage. To make such a combination functional, the backup power supply of Gidwani would also have to be combined with the teachings of Bridger. But, Bridger specifically teaches away from use of a backup battery. Therefore, Bridger teaches away from the suggested combination.

With respect to independent apparatus claims 10, 14, 18 and 22, the Examiner has asserted that Bridger teaches a number of the claimed elements. The Applicant disagrees with this reading of Bridger. These claims are limited to the elements being in the customer premises equipment. For example the claimed power monitor is in the customer premises equipment. In Bridger, the power monitor, or power loss detector, is

in the telephone company equipment. All that happens in the customer premises equipment of Bridger is that a relay changes position when power is lost and makes direct POTS connection to the local loop. The telephone company equipment detects this change and reconfigures its equipment to provide the POTS service. See col. 2, lines 10-12.

In the final office action of 06/17/2005, the seventh substantive office action in this application, the Examiner has presented new objections to the pending claims. On pages 5, and 6 the Examiner states that the claims: "are not concerned with providing local power supply and/or power supplied from remote location"; "Applicant's independent claims have nothing to do with VOIP services or POTS services"; and "the combination does not have to show VOIP services when power failure occurs."

As noted above, each pending claim is limited to an integrated services hub, ISH, on a customer premises. As defined in the specification and in US Patent 6,272,553 that is incorporated by reference, an ISH provides only VOIP services, depends on AC power at the customer premises for normal operation, and depends on backup batteries at the customer premises for operation when AC power fails. As a result, the Applicant submits that the claims all: are concerned with providing local power supply; have to do with VOIP services; and show providing only VOIP services when power failure occurs. The Applicant submits that therefore these new objections are erroneous.

SUMMARY

Applicants submit that the ground for rejection is improper since the references teach away from any combination of the references and the suggested combinations would be nonfunctional.